HOME OFFICE

THE TREATMENT OF YOUNG OFFENDERS

Report of the Advisory Council on the Treatment of Offenders

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To the RIGHT HON. R. A. BUTLER, C.H., M.P.,

Her Majesty's Principal Secretary of State for the Home Department.

I. Introduction

In May, 1958, you asked the Council to consider proposals put forward by the Prison Commissioners for revised methods of dealing with young offenders between the ages of 16 and 21. The three principal proposals were

(*a*) that a system of detention centres should be developed to the point at which it could replace short-term imprisonment (i.e. for six months or less) for young offenders;

(*b*) that the principle of the indeterminate sentence, which already exists in the borstal sentence, should be extended to all young offenders for whom a court consider that a period of detention of between six months and two years is required;

(*c*) that the courts should be prohibited from sentencing young offenders to imprisonment unless they consider a sentence of at least three years to be appropriate.

In referring these proposals to us, you said that, while you would not wish to press us to reach final conclusions on them without detailed study, you hoped that we might find it possible to give you our provisional views at a fairly early date.

2. We considered these proposals at meetings of the Council held in June and July, 1958. For the reasons which we give later in this report, we found little difficulty in agreeing in principle with the main proposals set out above, but during our discussion it became apparent that certain matters would need to be examined in greater detail before we could reach final conclusions upon them. We therefore appointed a sub-committee to examine these matters and submit a report to the Council. In view of your request to give you our provisional views as soon as possible an interim report, informing you that we agreed in principle with the proposals but had appointed the sub-committee, was submitted to you on 16th September, 1958.

3. The sub-committee did not begin its task immediately but waited to see how informed opinion would react to the brief details of the proposals given in the White Paper "Penal Practice in a Changing Society", which you presented to Parliament on 2nd February, 1959. In the event, these particular proposals attracted little attention; such comment as there was appeared to be favourable.

4. In considering the principles of these proposals we thought it right to hear the views of people who had practical experience of dealing with young offenders and of the various methods of treatment proposed. At our request, therefore, the Prison Commissioners arranged for the Governor of Latchmere House Borstal Allocation Centre, the Governor of Feltham Borstal Institution, the Governor of Everthorpe Borstal Institution (who had previously been Governor of the young prisoners' centre at Lewes Prison) and the Warden of Werrington House Detention Centre to attend one of our meetings. We are grateful to them for the help they gave us and to the Prison Commissioners for arranging for them to attend.

5. The sub-committee obtained written evidence from the Magistrates' Association, the Association of Chairmen and Deputy Chairmen of Quarter Sessions in England and Wales, the Justices' Clerks' Society, the National Association of Probation Officers and the Howard League for Penal Reform. The memoranda submitted by these organisations were of considerable assistance, and the sub-committee did not think it necessary to ask representatives of the organisations to attend to give oral evidence. We are grateful to these organisations for their help, and also to those persons who, in response to an invitation published in the Press, gave the sub-committee their views on various aspects of the proposals.

6. Some of the organisations which submitted evidence to the sub-committee took the opportunity of expressing their views on various matters, such as the extended use of attendance centres for adults and the staffing of detention centres, which, although indirectly related to the proposals, nevertheless had no direct bearing on the aspects with which we were mainly concerned. These matters have been brought to the notice of the Prison Commissioners or of the appropriate department of the Home Office, as the case may be.

II. The proposals generally

The objects of the proposals

7. The main objects of the Prison Commissioners' proposals, as we understand them, are

(*a*) to keep young offenders under the age of 21 out of prison; and

(*b*) to ensure the protection of society by providing that such offenders can be given the amount and type of training best suited to their needs, and from which they are likely to derive the most benefit.

These objects conform with the fundamental principle, which has long been accepted, that the penal treatment of young offenders should be primarily remedial and should be carried out in separate institutions or separate sections of institutions. This has been laid down internationally both in the Standard Minimum Rules of the United Nations and in separate United Nations reports on the treatment of young adult offenders. The Standard Minimum Rules say that "as a rule young offenders should not be sentenced to imprisonment".

8. These principles also form the basis of law and practice in Great Britain. The borstal system was established to keep young offenders who received that sentence from prison. Section 107 (4) of the Magistrates' Courts Act, 1952, provides for the eventual prohibition of the imprisonment of persons under 21 by magistrates' courts when the Secretary of State is satisfied that those courts have available to them adequate means of dealing with such persons. The "adequate means" contemplated as alternatives to imprisonment include detention centres.

9. For various reasons, however, practice does not conform wholly with principle. These proposals have been put forward as a step towards achieving that end, and for that reason alone are to be welcomed. In addition, they will provide a means of dealing with the problem (referred to in "Penal Practice in a Changing Society") created by the alarming increase in the amount of crime now committed by young people. This has led to great pressure on the accommodation available in borstals and young prisoners' prisons and has caused many youths sentenced to borstal training to wait for long periods in local prisons before they can be sent to a borstal institution. If the existing trends in crime continue into the so-called age "bulge", the situation will become much worse; and if those trends are to be checked young people must not only be deterred from offending but those who do commit offences must be treated in a way that will divert them from a life of crime. In our view, the proposals should help to achieve those objects.

10. The advantages of these proposals are that they will make it possible for the Prison Commissioners to build up a system of custodial treatment for young offenders (other than the small number sentenced to long terms of imprisonment)

which will be entirely separate from the prison system for adult offenders. This will extend to all young offenders sentenced to custodial treatment the benefits of individual study and treatment which are the objects of the borstal system and which have been achieved to a limited extent at detention centres. It is probable, moreover, that they will lead to a significant reduction in the total demands on accommodation for young offenders sentenced to custodial treatment, as a result of fixing the maximum period of the indeterminate sentence at two years as contrasted with the present maximum of three years for a sentence of borstal training (see paragraph 15). We think that these advantages are considerable.

11. The considerations set out above are those that mainly influenced us in agreeing in principle with the proposals. Further considerations relating specifically to one or the other of the two proposed forms of treatment (detention and custodial training) are given in Parts III and IV of this report.

Criticisms of the proposals

12. We think that these proposals may be criticised on two main grounds:

(*a*) that they will deprive the courts of the power to pass sentences which they consider to be appropriate to the offences committed; and

(*b*) that the proposed methods of treatment will be too "soft" either to punish offenders adequately for the offences they have committed or to act as a deterrent.

In our view neither of these criticisms would be well-founded.

13. It is true that there will be some restriction of the power of the courts to select the sentence they consider most appropriate, having regard to the circumstances of the offence and of the offender, and that, in the case of the indeterminate sentence of custodial training, the Prison Commissioners and not the court will decide how long a particular offender shall remain in custody. We do not think, however, that objections on those grounds are as valid in relation to young offenders as they might be in relation to adults. As we have already mentioned, it is a fundamental principle of penal treatment that the treatment of young offenders should be primarily remedial. The commission of an offence serious enough to warrant a custodial sentence shows in most cases that a youth requires training if he is to be diverted from crime; his sentence should therefore be related primarily to that need and he should be detained long enough for adequate training to be given. This period cannot usually be judged before the sentence begins. A short sentence of imprisonment may be regarded as an appropriate penalty for the offence committed, but it is of little value from the point of view of training and, since it cannot terminate before a known date, it provides little incentive to the offender to make an effort and respond to his training. For the reasons set out in paragraph 31 below, we think that sentences of detention in a detention centre must be of fixed lengths, but we think also that sentences of custodial training should be indeterminate if the maximum benefit is to be derived from them. The principle of the indeterminate sentence is already firmly established in the borstal sentence and we see no objection to its proposed extension.

14. We do not think that the methods of treatment now proposed can be regarded as "soft" or as being less severe than the existing methods. The standard sentences of detention which we propose in paragraph 32 are likely to prove more of a deterrent than short sentences of imprisonment of less than six months and, while the living conditions in detention centres may be better than those in prisons, the regime will certainly be more exacting. The mere fact that the proposed sentence of custodial training will be indeterminate will in itself act as a deterrent, for what impresses offenders most in a sentence is time. Young offenders at present prefer a sentence of imprisonment, the length of which they know in advance, to a sentence of borstal training, the length of which depends largely on their own efforts and which may result in loss of liberty for as long as three years. The brisker, more exacting regime of borstal institutions may also tend to make borstal training a less welcome sentence than imprisonment. Many youths, in fact, appeal against borstal sentences for the sole reason that they hope that the Court of Criminal Appeal will substitute a sentence of imprisonment. We do not think that there need be any fear that a young offender will serve his sentence in conditions that are too pleasant or too "soft", having regard to the need to treat him in the way best suited to him. If these proposals are accepted the Prison Commissioners will have at their disposal a wide variety of establishments, and a wide variety of regimes: if a youth shows that he needs to serve his sentence in rigorous conditions, we are sure that the Prison Commissioners will see that he does so.

15. Since, if our recommendations are accepted, sentences of detention will be for fixed periods of three or six months it is unlikely that the length of those sentences will be compared unfavourably with sentences of imprisonment of six months or less. There may, however, be some unfavourable criticism of the proposed indeterminate sentence of custodial training on the ground that it will result in detention for a shorter period than the existing borstal sentence. A sentence of borstal training is an indeterminate sentence with a minimum of nine months' detention and a maximum of three years, followed by a period of after-care extending to four years from the date of *sentence*. The proposed sentence of custodial training will be an indeterminate sentence of not less than six months and not more than two years followed, if our recommendation in paragraph 74 is accepted, by after-care for up to two years from the date of *release*. At first sight, therefore, the new sentence may appear to be less severe than the borstal sentence, but we do not think that this will be so in practice. As we explain in paragraph 52, the length of this sentence has been carefully related to certain important considerations and we are satisfied that it will prove adequate.

16. In any event, the indeterminate sentence, with its maximum period of two years in custody, will not be the only penalty available for persistent offenders or youths who commit serious offences. The Prison Commissioners propose that the courts should be prohibited from sentencing a young offender to imprisonment only if they consider a period of custody of less than three years to be appropriate. In a serious case, therefore, it will remain open to the court to pass a sentence of three years' imprisonment or more. Such sentences are likely to be rare. In addition we recommend, in paragraph 58, that where a youth who has served one indeterminate sentence is convicted again the courts should have power, at their discretion, to impose a determinate sentence of not

less than eighteen months instead of another indeterminate sentence. It will thus be possible for the courts to deal adequately with persistent or serious offenders.

17. The proposals may also be criticised on the ground that reforms of this kind should be made only in the light of greater knowledge based on research. No specific research was carried out before the proposals were formulated, but we do not think that this is a reason for not making the proposed changes. They are based on principles which would not be affected by the results of further research into the effects of different methods of treatment, and we do not think that their introduction should be delayed while such research is carried out. At some future date the results of any research that is carried out may, of course, suggest some modification of the present proposals.

Girls and young women

18. The original proposals related only to boys and young men and we have considered them mainly in that context. We think, however, that, subject to the practical considerations referred to below, similar changes in the penal treatment of girls and young women should also be introduced.

19. In 1957, only 98 females under the age of 21 were sentenced to imprisonment for six months or less, and many of these were sentenced only with a view to recall to a borstal institution. It would clearly be impracticable to set up a detention centre for such a small number of offenders. Nevertheless, it is desirable that their treatment, like that of males of similar ages, should be primarily remedial and therefore we recommend that they should receive the standard sentences of three months or six months that we recommend for males in paragraphs 30 to 33, during which they should be given an appropriate course of training. We were advised by the Prison Commissioners that such training could be devised and carried out in suitable units in selected women's prisons.

20. Very few females under the age of 21 are sentenced to imprisonment for periods of more than six months but less than two years (only four in 1957) and the great majority of those for whom custodial treatment is thought to be necessary are sentenced to borstal training. Nevertheless, since the new indeterminate sentence of custodial training is based mainly on considerations of principle (to which we refer in paragraph 7) we think that it should be introduced for females as well as for males.

III. Sentences of Detention (six months or less)

The proposals

21. The Prison Commissioners propose that when the system of detention centres can be sufficiently developed all youths aged between 16 and 21 who are to be detained for six months or less shall serve their sentences in detention centres instead of in prisons. This proposal has been put forward partly because of the considerations of principle referred to in paragraph 7 and partly because of the deficiencies of short sentences of imprisonment, which are aggravated by the large numbers of young offenders sentenced to imprisonment by magistrates' courts and the present overcrowded state of the local prisons. (We appreciate that the law relating to children and young persons under the age of 17 is at present being reviewed by a Departmental Committee under the chairmanship of Viscount Ingleby; and nothing that we say in this report is intended to prejudge in any way the conclusions about the treatment of offenders under 17 which that Committee may reach.)

22. In 1957 more than 70% of young offenders sentenced to imprisonment received sentences of less than six months, and these included a considerable number with no previous convictions. Those with sentences of under three months, who stay in local prisons, cannot be kept in separate sections, and the present overcrowding frequently makes it impossible for those with sentences of up to six months to get to a young prisoners' centre until within a few weeks of the sentence expiring. Although young prisoners are so far as possible segregated from adults, these short prison sentences are of little value from the point of view of training and may do actual harm by making the young offender accustomed to prison ways and the habits of thought of prisoners and by removing a healthy fear of the unknown.

23. A young prisoner may thus serve a short sentence without any form of psychological examination or detailed enquiry into his home background and the causes of his delinquency. Every effort is made to collect information for the purposes of after-care, but the pressure on staffs at the local prisons is such that very little can be discovered and recorded about a young prisoner at what may be a critical stage in his criminal career.

24. The deficiencies of short sentences of imprisonment for young offenders have to a great extent been overcome in detention centres (see paragraph 27 below). Moreover, the substitution of detention in a detention centre for such sentences would be in accordance with the principles to which we have referred and with the intention of section 107 (4) of the Magistrates' Courts Act, 1952. We therefore welcome these proposals, which we think will make it possible to give much more effective treatment to young offenders and to divert many more youths from crime.

25. We understand that the number of detention centres (of which there are four at present, two senior and two junior) is likely to be increased to seven or eight by the beginning of 1961, and that it may then be possible for a senior centre to be made available for all courts. We appreciate, however, that the date at which these proposals, if they become law, should be implemented will need to be decided in the light of an up-to-date assessment of the demands that courts are likely to make on the accommodation available. It may be that the new system would best be brought into operation gradually by raising the age (at present 15) below which offenders may not be sentenced to imprisonment by one year or more at suitable intervals.

The enlarged function of the detention centre

26. Hitherto, detention in a detention centre has been only one of several forms of treatment, including imprisonment, available to the courts. Detention centres have therefore come to be regarded as places to which, as an alternative to some other form of treatment, the courts may send youths who they consider would benefit particularly from the so-called "short, sharp shock" of a period of detention in a centre. In future, if these proposals are accepted, these centres will be the only places to which the courts can send youths who they think should be detained in custody for a period of six months or less. This important consideration has necessarily influenced us in examining the questions of detail discussed below.

27. Nevertheless, these proposals do not in our view constitute any major change of principle. The Criminal Justice Act, 1948, contemplated that eventually detention centres would accommodate all young offenders whom magistrates' courts would otherwise have sent to prison; what is proposed, therefore, is to fulfil that intention of the Act and to apply the same principle to young offenders sentenced by courts of assize and quarter sessions. Nor do we foresee any great difficulty in adapting the regime of the centres to meet the new conditions. The system has already shown some flexibility in expanding the original conception of a regime based primarily on deterrence to include elements of positive personal training. We believe that in this wider context it will be well able to maintain the same brisk and exacting regime, which will, as we have suggested in paragraph 14, be both more rigorous and more constructive than is possible for short sentences in local prisons.

Selection and classification

28. Our attention has been drawn particularly to the need for careful selection and classification of youths sentenced to detention and for sufficient remand centres to which youths can be sent so as to provide the courts with adequate information about them. We agree that it will be essential for the courts to have the fullest possible information about each youth and his background before deciding that a period of detention, as distinct from any other form of treatment, is necessary. We are glad to note from the White Paper "Penal Practice in a Changing Society" that the Government have recognised the difficulty that the Prison Commissioners have encountered in the provision of remand centres and have made it clear that it is their intention to provide an

adequate number of them as soon as possible. Nevertheless, we think it right to record our view that unless sufficient remand centres are provided the proposed changes in the custodial treatment of young offenders will not be as successful as they otherwise might be. One of the main objects of these proposals—to keep youths out of prison—will be to some extent defeated if youths have to be remanded to prison in order that the reports required by the courts can be obtained. We appreciate that, for financial and other reasons, it is unlikely to be possible to provide remand centres and detention centres simultaneously and we would not wish to see the implementation of this particular proposal delayed until adequate remand centres can be provided. We hope, however, that everything possible will be done to ensure that a sufficient number of centres is made available in the reasonably near future.

29. It has also been suggested to us that provision should be made for special treatment, if necessary in special institutions, for particular types or classes of youths, such as the medically unfit or mentally sub-normal. Medical fitness and mental capacity are clearly factors that will need to be taken into account by the courts in deciding whether or not a sentence of detention is appropriate, but we do not think it would be practicable for the Prison Commissioners to make special provision, either in separate institutions or within each detention centre, for particular classes or types. There will be only a limited number of detention centres and these will have to be distributed about the country according to need and to where suitable premises can be built or obtained; it would be unpractical to suggest that some of them should be devoted entirely to youths who need special treatment of one kind or another. The fact that youths of widely differing characteristics, abilities and states of health will, if this proposal is accepted, be sent to detention centres is a factor that will clearly have to be taken into account in devising the regime at those centres, which will have to provide for some flexibility within each centre. The Prison Commissioners are considering what might be done to meet the special needs of particular youths and we think that they can be relied upon to make whatever provision is desirable and practicable in this respect.

Nature and length of sentence

30. The normal period of detention at present is three months, but there is power to award up to six months in exceptional cases, and if the offender is of compulsory school-age the term may, under certain conditions, be not less than one month. It was suggested to us that in the new conditions to be brought about by the proposals there would be considerable advantages in having a definite sentence, or sentences, and we have considered this suggestion carefully.

31. In pursuance of the principle that the treatment of young offenders must be primarily remedial and educational, the regime in a detention centre must be stimulating and must contain an element of progressive training. This can be achieved only if there is some uniformity in the length of sentences; in the existing centres, the great majority of sentences are, as we have already mentioned, for three months, which is the equivalent of ten weeks with full remission, and the programme of training has been devised to make the best possible use of this period. If, under the proposed new arrangements, the courts had power

to impose any sentence between one month and six months (as they have in regard to sentences of imprisonment), and they used this power in such a way that there was in fact a great variation in the length of sentences, the organisation of training would be extremely difficult. We do not think that convenience in administration is a factor to which too much importance should be attached, but we recognise that one of the main objects of the proposed change would not be achieved unless progressive training for a reasonable period could be given. We therefore had no difficulty in accepting the view that uniformity was desirable.

32. We found it much more difficult to decide whether there should be one or more standard sentences, and of what length. Various suggestions were made to us, the one most favoured being that the courts should be empowered to impose a sentence of detention of three months for any offence punishable with imprisonment, and of six months for any offence for which the maximum term of imprisonment is six months or more. One objection to this proposal is that the courts would be unable to order the detention of young offenders for a lesser period than three months, as they might wish to do for comparatively trivial offences. We agree, however, that if a court finds it necessary to order the detention of a young offender it is desirable, in the offender's own interests, that the period should be sufficiently long to enable some constructive training to be given, and that if an offence is so trivial that it does not merit a sentence of three months' detention the offender can be adequately dealt with in other ways. It was suggested, in the course of our discussions, that while three months might be adequate for the "short, sharp shock" of the existing detention centres it was too short a period in which to teach a youth a new way of life, but we were advised that many lads developed strikingly in that period (though the same lads might show an even better response to a longer period), while those who would not respond in three months might respond adequately in six months. We think that it would be impossible to fix one standard sentence which could be said to be the most likely, in all circumstances, to meet the needs of the majority of offenders, and for these reasons alone we would have been prepared to agree that there should be two standard sentences, of three months and six months respectively.

33. There is, however, an important additional reason for recommending two standard sentences instead of only one, and that is the possibility (to which we refer in paragraphs 12 and 13) that these proposals may be criticised on the ground that they restrict considerably the discretion of the courts to impose whatever sentences they consider most appropriate, having regard to the circumstances of the offence and of the offender. This criticism would be greatly strengthened, and justifiably so, if the courts had only one sentence of detention at their disposal. Moreover, if these proposals are accepted, detention will be the only alternative to an indeterminate sentence. If there were only one standard sentence of detention it would, we think, have to be for three months, since this is the minimum period in which adequate training can be provided but the maximum which the courts might be willing to award in many cases. Consequently, if a court thought three months' detention inadequate for a particular offender they would be obliged to pass an indeterminate sentence of custodial training, which might involve an actual period of detention of considerably more than six months. We think that in many cases the courts would be reluctant

to impose the latter sentence, and that this strengthens the case for providing a second standard sentence of detention of longer than three months. We consider six months to be the most appropriate period, both because it will facilitate the organisation of training and because it seems the most suitable penalty for an offence for which three months' detention would be inadequate but an indeterminate sentence of between six months and two years might be too severe.

34. There is another way in which the proposals can be said to fetter the discretion of the courts and which we think could be avoided while at the same time strengthening the effectiveness of the new system. Section 18 (2) of the Criminal Justice Act, 1948, provides at present that a youth over the age of 17 who has served one sentence of detention in a detention centre may not be given another. Consequently, if such a youth offends again, and the court considers that he requires further custodial treatment, he must be sentenced to borstal training or a period of imprisonment. But, as we have already pointed out, detention will in future be the only alternative to an indeterminate sentence and therefore, if the present restriction on detention is retained, a court which has to deal with a youth who has served one sentence of detention—perhaps of only three months—will be faced with a dilemma similar to that described in the preceding paragraph. We recommend, therefore, that courts should have power to sentence a youth over the age of 17 to more than one sentence of detention in a detention centre.

35. In making this recommendation we do not propose that the courts should be required to award the various sentences at their disposal progressively (i.e. detention for three months on the first occasion, detention for six months on the second and either detention for six months or an indeterminate sentence of between six months and two years on the third or subsequent occasion) or that one or more sentences of detention should always be imposed before an indeterminate sentence. Nor do we suggest that if a youth has been sentenced to six months in a detention centre he must necessarily be given a similar sentence if he offends again and a further sentence of detention is considered appropriate. The offence in respect of which he received his first sentence may have been much more serious than the subsequent offence, and in those circumstances we see no reason why he should not be given a sentence of three months' detention for the subsequent offence if the court consider that it would be adequate. We think, however, that it would generally be undesirable for a youth to be sent to a detention centre if he has previously been sentenced to an indeterminate sentence of custodial training. Experience has shown that youths who have been to approved schools and are subsequently sentenced to detention cause more trouble in the detention centres than other youths and receive less benefit, and we think that those who have spent some time in institutions similar to the existing borstal institutions or young prisoners' prisons would be likely to be more troublesome and to set a bad example to youths who have not had that experience. Section 18 (2) of the Criminal Justice Act provides that a court may not order a person to be detained in a detention centre if he has been previously sentenced to imprisonment or borstal training, and since the indeterminate sentence of custodial training will replace those sentences we think it would be right similarly to restrict the powers of the courts. We recommend, therefore, that, save in the exceptional circumstances to which we refer in paragraph 61, a

court should not have power to order either of the proposed sentences of detention if a youth has previously been sentenced to an indeterminate sentence of custodial training.

Detention in default of payment of a sum of money

36. A special problem arises in connection with youths who at present are committed to prison not as a punishment for their offence but in default of payment of a sum of money. The latter expression includes estreated recognizances, payments under maintenance and affiliation orders and civil debts, as well as fines.

37. Imprisonment in these circumstances is not in itself a penalty but a form of coercion. The term for which the offender is committed is proportionate to the amount outstanding, and if the balance (which itself is reduced in proportion to the time served) is paid at any time the offender is immediately released. The initial periods for which offenders are committed therefore vary considerably, and it is impossible to say when a youth is committed to prison how long he will actually serve. Most of the periods served are very short: in 1957, 102 youths served periods of up to one month's imprisonment and 49 served periods of between one and three months; in addition, about 12 youths served varying periods in detention centres.

38. If the proposals we are considering are accepted, youths who default in these ways will, unless some other provision is made, have to be sent to detention centres. Clearly, however, the training programme of a detention centre would be disrupted if the centre had to receive a number of offenders with sentences of varying lengths, many of them very short, who were committed to custody not with a view to training but as a sanction for the enforcement of a payment. For this reason it was suggested to us that all defaulters should receive the standard determinate sentence of three months' detention, irrespective of the amount outstanding, and that this should be done either

(*a*) by imposing the detention centre sentence, in effect, for contempt of court; or

(*b*) by giving the courts power to substitute a sentence of detention for the original penalty, on the ground that the failure to pay (particularly a fine) showed that the defaulter needed training of the kind that could be given in a detention centre.

39. We were impressed by the argument that wilful refusal to pay all or part of a fine amounts to defiance, or contempt, of the court and should be dealt with accordingly, and we agree that there may be some justification for treating young offenders differently from adults in this respect. Young offenders must be made to recognise their personal responsibilities, and if a court adjudges that the payment of a fine is the most suitable punishment for an offence, then the offender ought himself to pay the fine. The payment of the whole, or the balance, of a fine by his relatives or friends in order to save him from being taken into custody or to terminate his detention merely tends to increase his own irresponsibility. His refusal to pay the fine himself indicates that he needs training, and it can be argued that the length of any period of detention in default should therefore be related to this need rather than to the amount of the fine outstanding.

40. We think, however, that there are serious objections to this proposal. In many cases, the period of detention would be out of all proportion to the amount of the fine outstanding and therefore young offenders might be more severely treated than adults who similarly defaulted. Moreover, since the period of detention would be the same for all, it would not take account of the effort which had been made to pay the fine; consequently, a youth who had refused to pay any of a comparatively small fine, one who had paid most of a much larger fine but for some reason had refused to pay the remainder, and one who had paid none of a large fine would all be treated alike, which would appear unjust. We think that courts would be reluctant to deprive youths of their liberty for three months for failure to pay small sums. In addition, the argument that wilful refusal to pay a fine amounts to contempt of court might apply to refusal to comply with a court order to pay a civil debt or with a maintenance order, and we do not think it right that civil or maintenance debtors should be sent to detention. These objections seem to us to be overwhelming, and accordingly we do not recommend acceptance of this proposal.

41. We accept the Prison Commissioners' view that it would be extremely difficult to provide within a detention centre for numbers of youths serving very short periods, which might be terminated at any time, and therefore we do not think that it would be practicable, without seriously disrupting the work of detention centres, merely to substitute detention in a centre for imprisonment in these circumstances. We have therefore reluctantly reached the conclusion that defaulting young offenders should continue to be sent to prison for a period proportionate to the amount of the fine outstanding. We appreciate that it can be argued that it would be wrong to abolish imprisonment for quite serious offences but to retain it for comparatively trivial offences, but we do not think that this argument takes sufficient account of the fact that in the circumstances contemplated the youth would be sent to prison not as a punishment for an offence but as a means of coercion. There is, we think, a valid distinction between committing to custody for that purpose and a sentence of detention for the purpose of training. Little or no useful training could be given in the short periods for which defaulters would remain in detention, and we do not think it right that the training of other youths, whom the sentencing courts have decided at the outset need such training, should be prejudiced merely in order to keep out of prison those youths for whom a fine has been thought appropriate or, in the case of civil debtors, those who have committed no offence. For these reasons, we think that to continue to send young defaulters to prison would not be inconsistent with these proposals and that it can be justified.

42. We should like to emphasise, however, that in our view a youth should not be committed to prison until all practicable means of persuading him to pay his fine have been tried and have failed. We have already recommended, in our report on alternatives to short terms of imprisonment, that greater use should be made of supervision orders under section 71 of the Magistrates' Courts Act, 1952. We hope that the courts will implement this recommendation in relation to young offenders, and will also make full use of all other means available to them, both formal and informal (such as persuasion by a probation officer), before committing such offenders to prison in default.

43. We have examined, as a possible alternative, a suggestion that if an offender refuses to pay a fine part of his earnings should be attached. This would

be in conformity with the principle that a young offender must accept his personal responsibilities, and from that point of view it has much to commend it. We think, however, that it is undesirable in principle and that it would give rise to many practical difficulties. Attachment of earnings is now possible only in connection with maintenance orders, and we understand that when proposals for the attachment of earnings for maintenance default, which were ultimately embodied in the Maintenance Orders Act, 1958, were before Parliament undertakings were given that the principle of attachment of wages would not be extended to other fields.

44. Another possible alternative that we considered was that attendance centre orders should be used as a sanction for the enforcement of fines. This could not, however, be done for some years; the first experimental attendance centre for youths aged 17–21 was opened as recently as December, 1958, and even if experience shows that this method of treatment is successful for youths in this age-group it will be some considerable time before centres are available in all parts of the country. If the system of attendance centres is ever sufficiently developed we think that this question might be reconsidered; meanwhile, it must be ruled out as impracticable.

45. For the reasons given above, we recommend that youths who fail to pay all or part of a sum of money, after all proper methods of persuasion have been tried, should continue to be committed to prison for a period proportionate to the amount outstanding.

IV. Indeterminate Sentences (six months to two years)

The proposals

46. The main proposal is, briefly, that the principle of the indeterminate sentence, which already exists in the borstal sentence, should be extended to all young offenders for whom a court consider that a period of detention of between six months and two years is required. This will mean that the courts will merely impose an indeterminate sentence of "custodial training" (by whatever name may be finally decided upon—see paragraph 51 below); it will then be for the Prison Commissioners to decide under what conditions and in which establishment, or establishments, the sentence shall be served and after what period the offender shall be released.

47. If it is accepted that the regime provided for young offenders should in all cases be remedial and educational, and should be carried out in institutions separate from ordinary prisons, it is in principle no longer necessary for the law to provide a separate form of sentence, such as the borstal sentence, to secure those ends. The present system of two forms of sentence makes for difficulties which are unnecessary and tend to hinder rather than help the training of young offenders as a whole. Some young persons are sentenced to borstal training whose needs could better be met by the type of regime provided at a young prisoners' centre, and some are sentenced to imprisonment who would benefit from the type of training provided at a borstal institution. It is also impossible to make the most advantageous and economical use of the establishments available.

48. It was pointed out to us that if the two methods could be integrated by law into a single-sentence system, all young offenders now sentenced to borstal training or to imprisonment for periods of up to, say, three years could be allocated to any of the types of establishment which at present cater for young offenders with these types of sentence. It would also be easier to suit the form of training to the needs of the individual, since careful individual study would be given in an allocation centre, after sentence, in a way that is not possible under the present system before sentence.

49. Although two methods of treatment are at present available the courts already show a marked preference for the indeterminate sentence, with its emphasis on training, provided by the borstal sentence. In 1957, only 387 youths under the age of 21 were sentenced to imprisonment for more than six months; in the same year, 2,367 youths were sentenced to borstal training. The proposals would also have little effect on the conditions in which young offenders serve their sentences, for there is already little difference between the principles of training in young prisoners' prisons and those in borstal institutions.

50. We think that these arguments show conclusively that there would be many advantages in extending the principle of the indeterminate sentence to young offenders for whom a court considers that a custodial sentence of more

than six months is required and therefore, as we have already reported, we accept this proposal. We give below our reasons for agreeing also that the length of this indeterminate sentence should be between six months and two years and our recommendations on certain detailed aspects of the proposals.

51. In this report we have, where necessary, used the expression "custodial training" which was used by the Prison Commissioners in putting forward these proposals and was also used in the White Paper "Penal Practice in a Changing Society". This was never intended, however, to be the name for this new form of treatment. Since the latter will replace the present borstal training, as well as imprisonment in a young prisoners' prison, we think that there would be considerable advantages in retaining the familiar name "borstal training", which is already generally recognised as meaning an indeterminate sentence with the emphasis on constructive training.

Length of sentence

52. The Prison Commissioners consider that if the integration of the two forms of treatment is to be achieved it will be necessary to provide, by law, for a single form of indeterminate sentence which will fall between the limits of the fixed detention centre sentence and the fixed sentence of imprisonment of three years or more which, as we mention in paragraph 16, is to be reserved for offences of particular gravity. The considerations affecting the length of this indeterminate sentence are as follows.

(*a*) The minimum period of detention should be sufficient to afford a penalty which will be regarded by the courts as appropriate to the offence.

(*b*) The maximum period of detention should be determined by the requirements of training.

(*c*) Since courts will be precluded from passing determinate sentences within the range of the indeterminate sentence, that range should not be too wide.

These considerations point to an indeterminate sentence with a minimum of six months, which is the longest period for which a young offender may be committed to a detention centre, and a maximum of two years. Offenders committed to a detention centre may earn a remission of one-sixth of their sentence, so that in practice the minimum period of detention under the indeterminate sentence would be longer than the normal maximum in a detention centre.

53. We were advised by the Prison Commissioners that a maximum of two years would be adequate for the purposes of training. Experience has shown that there are very few youths whose training can usefully be extended beyond a period of two years, and that most of those who are detained beyond that period are detained either beceuse they have made no apparent response to training or because they have committed offences against discipline which have made it necessary to delay their discharge as a disciplinary measure. It is unlikely that in such cases prolongation of training would increase the hope of success.

54. The Prison Commissioners also advised us that in their view the reduction of the maximum period of the training sentence from three years to two years would be likely to have a good effect on the offenders themselves, since they would be encouraged to co-operate more fully in their training by the knowledge that such co-operation would earn them release on licence after a period of

detention substantially shorter than two years. The Commissioners also believe that the reduction would in no way reduce the value of the training given and might indeed improve it, by accelerating the tempo of training and presenting a challenge to the staffs of the institutions. They contemplate that the normal period of detention would vary substantially between different institutions; the offender's record of delinquency and the nature of the offence of which he was convicted would be among the factors determining the probable length of his detention and the type of establishment to which he would be allocated.

55. We accept these arguments, and agree that the period of detention under an indeterminate sentence should be between six months and two years.

The problem of the persistent offender

56. It was originally proposed that youths who failed to respond to an indeterminate sentence should, if they offended again, be given further similar sentences. We considered, however, that this would be unsatisfactory, and would be likely to be severely criticised by the public, and that, where it seemed apparent that a youth had not responded to this form of treatment, it might be necessary to introduce an element of greater deterrence into a second or subsequent sentence. This question was one that was specially considered by the sub-committee.

57. Since a youth who received a second indeterminate sentence would almost certainly be detained for at least twelve months (and usually for longer) any other type of sentence proposed for such youths should not result in a shorter period of detention. It was suggested to us that in order to carry out this intention there were two possible types of sentence which a court might be empowered to impose on a young offender who had already received an indeterminate sentence of between six months and two years. These were

(*a*) a determinate sentence of between eighteen months' and three years' imprisonment (which, with normal remission, would in fact be between twelve months and two years); or

(*b*) a further indeterminate sentence of twelve months to two years.

Under alternative (*a*) those young offenders receiving determinate sentences would serve their sentences in separate establishments, or separate parts of establishments, because it would not be desirable for them to associate with young offenders serving indeterminate sentences. Since the number of offenders serving determinate sentences of this kind would be comparatively small, variety in training methods would inevitably be restricted, and from this point of view alternative (*a*) may be regarded as a less desirable solution than alternative (*b*), under which offenders could continue to be allocated to a suitable institution within the framework of the general system of institutions for offenders serving medium-length sentences.

58. On the other hand, the proposals for indeterminate sentences, like those for short sentences of detention, are likely to be criticised on the ground that they interfere with the discretion of the courts to impose what they consider to be appropriate sentences. This criticism will be considerably strengthened if, except where the offence is sufficiently serious to warrant a sentence of three years' imprisonment or more (which most courts will be reluctant to impose) a

court has no choice but to sentence a youth under 21 to further indeterminate sentences of custodial training if he offends again, perhaps more than once, after failing to respond to a previous similar sentence. We recognise that the Prison Commissioners could make adequate arrangements for second or subsequent sentences to be served in more rigorous conditions and that the offender would almost certainly be detained for increasingly longer periods, but we do not think that the public will appreciate this. They will argue, with some force, that since the new form of custodial training has manifestly failed with a particular youth there is no point in repeating that treatment, and that he should be given what they will regard as a more severe sentence. For this reason, in particular, we consider that there must be provision for a determinate sentence for repeated offences.

59. We do not think, however, that this determinate sentence of imprisonment need necessarily be imposed every time a youth who has served one indeterminate sentence is convicted again. There will be some exceptional cases, to which we refer in paragraph 61, in which the courts may consider that a sentence of detention in a detention centre should be imposed, and there may well be others in which the courts will consider that a second, or even a third, indeterminate sentence will be appropriate and may be of greater benefit to a particular offender than a determinate sentence. We think, therefore, that for a second or subsequent offence following one indeterminate sentence (unless the circumstances of the offence or of the offender are such as to justify the exceptional treatment we recommend in paragraph 62) the courts should have discretion to impose either a further indeterminate sentence of between six months and two years (which, at the discretion of the Prison Commissioners, might be served in more rigorous conditions and would probably result in longer actual detention) or the proposed determinate sentence.

60. In our view, this sentence (unless it is imposed for a serious offence, for which determinate sentences of three years' imprisonment or more are to be retained) should be of not less than eighteen months and not more than three years, which means, with maximum remission, between twelve months and two years. We realise that it is contrary to long-standing practice in this country to prescribe a minimum penalty, but we think that this is both necessary and justified in the particular circumstances for which this penalty is being provided. If no minimum were prescribed, a court might well impose a penalty which, with remission, would result in a youth being released much earlier than he would have been released from an indeterminate sentence. This would defeat one of the objects of providing a determinate sentence as an alternative to a further indeterminate sentence. Conversely, youths who were given further indeterminate sentences would be encouraged to appeal, as they do now against borstal sentences, in the hope that the Court of Criminal Appeal would substitute a determinate sentence which would result in their being detained for a period shorter than that for which they would probably be detained if their release depended on their own efforts. In any event, we do not think that to provide that if a court chooses to impose a determinate sentence, instead of a further indeterminate sentence, it must be for at least eighteen months would, in fact, be prescribing a minimum penalty for the offence. There would be the alternative of a further indeterminate sentence which, at the discretion of the Prison Commissioners, and according to the youth's response, could result in his being

released after twelve months, or even sooner (though this is unlikely). The purpose of the proposed provision is to give the courts power to fix the minimum period for which a persistent offender should be detained, instead of leaving this to the discretion of the Prison Commissioners. Since this would help to retain the discretion of the courts to impose what they consider to be the most appropriate penalty we think that it should be welcomed by them rather than opposed.

61. Our recommendations in the preceding paragraphs of this section relate mainly to cases in which youths commit further offences shortly after their release from an indeterminate sentence or, at a later date, commit offences of such a kind as to show clearly that they have not learned their lesson or benefited from their training. There may well be other cases, however, in which the subsequent offence is not committed for some considerable time after release and may be unrelated to the youth's previous record. For example, a youth may at an early age commit a number of offences of housebreaking and be sentenced eventually to a period of detention in a detention centre and later to an indeterminate sentence of custodial training, from which he is released at, say, the age of 18½. For two years following his release he may commit no further offences of any kind, and then be convicted of an isolated offence which does not in itself suggest a resumption of his previous criminal career or the need for prolonged training. The offence may be one which is regarded by the court as too serious to be dealt with by way of probation or a fine, but unless some special provision is made for such cases the court will, under our recommendations, have no option but to sentence the youth to either an indeterminate sentence (which could lead to deprivation of liberty for as long as two years) or a determinate sentence of eighteen months' imprisonment (which, with maximum remission, would mean detention for one year). Such sentences might be so disproportionate to the gravity of the offence that the courts would often be justifiably reluctant to impose them.

62. We are impressed by the objections, to which we have referred in paragraph 35, to receiving in detention centres youths for whom the regime is not designed and who would have a bad influence on others in the centres. Nevertheless, we think that the courts should have the further alternative of ordering a further period of detention in such cases as we have mentioned in the previous paragraph. We recommend, therefore, that a court should have power to order a further period of detention of either three months or six months in cases where a person under 21 has already served an indeterminate sentence, but only if it considers that, having regard to the length of time that has elapsed since his release from the earlier sentence, his previous record and the nature of the offence, there are adequate special reasons for doing so. In forming an opinion on these questions, the court would be much assisted by a report from the Prison Commissioners, which would deal *inter alia* with the youth's probable response to each of the forms of treatment available, and whether he was likely to be a contaminating or disturbing influence in a detention centre. We recommend that such reports should be provided in all cases in which persons under 21 who have served indeterminate sentences of custodial training are charged with further offences.

Powers of magistrates' courts

63. It has been suggested to us that magistrates' courts should have power

to sentence offenders to the proposed new indeterminate sentence of custodial training. We realise that magistrates must sometimes find it frustrating to have to commit youths to quarter sessions for sentence, particularly if the remand means, as it frequently does, that a youth has to remain in prison for several weeks before appearing at quarter sessions. But this, we think, is a further argument in support of the provision of an adequate number of remand centres (to which we have already referred in paragraph 28 of this report) rather than for an extension of the powers of magistrates' courts.

64. We understand that the suggestion that magistrates' courts should have power to pass sentences of borstal training has been put forward from time to time in the past (though not in recent years) and has always been a matter of controversy. We think that the present proposal is open to objection on two main grounds:

(*a*) It would not be appropriate for magistrates' courts to have power to deprive persons of their liberty for a period that may be as long as two years.

(*b*) The higher courts are subject to direct appeal to the Court of Criminal Appeal. Magistrates' courts, however, are subject to appeal only to quarter sessions, and we do not think that it would be right either to give quarter sessions the last word in appeals against sentences of this kind or to provide for two stages of appeal.

For these reasons, we do not think that there are adequate grounds for recommending this change.

V. After-care

65. In considering the proposals for the after-care of youths following short sentences of detention in a detention centre or indeterminate sentences of custodial training we have borne in mind that the Council recently considered very thoroughly the whole question of the after-care and supervision of discharged prisoners and that a report on these matters was submitted as recently as July, 1958. That report was, however, concerned with adult offenders, and we think that different considerations from those which influenced some of its recommendations must be taken into account in deciding what should be done to provide after-care for offenders under the age of 21. Some of our present recommendations accordingly differ from those made previously.

After-care following a sentence of detention in a detention centre

66. The Prison Commissioners did not originally propose that there should be a period of after-care following a sentence of detention, but we thought that this might be desirable and asked the sub-committee to consider it, in conjunction with its consideration of the after-care arrangements for youths sentenced to medium indeterminate sentences. Since we first considered this matter, the question of after-care has assumed greater importance because of the decision of the Court of Criminal Appeal in the case of *R. v Evans*.* As a result of that decision, the courts are now precluded from making a probation order in respect of one offence of which a youth is convicted, while at the same time sentencing him to detention on another conviction—the purpose of this being to ensure a period of supervision after his release from the detention centre. This had been a common practice, and the decision has caused considerable anxiety to courts and probation officers. All the organisations which submitted evidence to the sub-committee referred to this decision and recommended that a period of statutory after-care following a sentence of detention would be desirable.

67. Under section 25 of the Prison Act, 1952, the Prison Commissioners may direct that instead of being granted remission of his sentence a young prisoner may be discharged on licence on or after the day on which he could have been discharged if remission had been granted. Under this power, all young prisoners serving a sentence of three months or more are released on licence, subject to supervision by the Central After-Care Association, for a period of six months or the remainder of the sentence, whichever is longer. In the event of misbehaviour they are liable to recall to serve the remainder of the sentence. Under these provisions, a young prisoner with a sentence of only three months cannot be recalled for a longer period than one month, and the sanction of recall is in fact hardly ever used in such cases. This sanction is also comparatively rarely used for young prisoners with longer sentences. Nevertheless, the Prison Commissioners consider that the provision of statutory after-care for young prisoners serves a valuable purpose, and, in the light of their experience with young prisoners, they suggested to us that it would be desirable to have a similar power to release on licence all young offenders committed to a detention centre for

* 3 All E.R. [1958], 673.

three months or more. This power, they suggest, should be discretionary, as it is at present with young prisoners, since there may be occasional cases in which there appears to be no need to make provision for statutory after-care. We accept these views.

68. For the reasons given below, we recommend that twelve months should be the normal period of after-care, but we think that it should run from the date of release rather than from the date of sentence. This would be in accordance with a recommendation made in our report on after-care.

69. Successful after-care depends almost entirely upon the relationship between the offender and his supervisor, and we were advised that a satisfactory relationship might not be achieved if the period of after-care was less than twelve months. This may seem to be an unnecessarily long period following only ten weeks in a detention centre (i.e. a sentence of three months less remission) but after-care must be related to the needs of the offender and not to the period he spends in custody. There may, however, be some youths for whom a shorter period of after-care would be adequate and for that reason, and also because it is desirable not to increase the burden on probation officers more than is necessary, we think that each case should be reviewed after six months and that, if the supervisor thinks it is justified, he should make a recommendation for discharge. It was suggested to us that, instead of the normal period being twelve months, with consideration being given after six months to the termination of the supervision, a probation officer who considered that more than six months' supervision was needed should be required to state his reasons for recommending an extension to twelve months. We consider, however, that it would be preferable for a youth to know that the period of after-care would normally be twelve months but that it could be shortened if he made good progress.

70. It must be recognised that the sanction for misbehaviour during after-care would be no more than recall to a detention centre for two weeks, if the period of detention was three months, or for one month if the period was six months. This sanction may seem to be hardly adequate, but we understand that young people very much dislike having to return to prison or detention, even for such a short period. In view of this, and of the fact that it is hardly ever necessary to use the sanction of recall in cases of young prisoners released after serving sentences of three or six months' imprisonment, we think that this sanction will prove to be adequate.

71. We enquired whether these proposals would seriously affect the manpower requirements of the probation service. We were advised, however, that although on a purely arithmetical calculation some 24 additional probation officers might be needed the extra work should not be a great additional burden once the service can be brought up to strength.

After-care following an indeterminate sentence of custodial training

72. The existing borstal sentence, which the proposed new sentence of custodial training will replace, provides for statutory after-care for a period of four years from the date of sentence. There is power to release an offender from his obligations before the four years has elapsed in cases where it is clear that continued supervision is unnecessary, but this power is seldom used.

73. It was proposed originally that the existing provision should be retained so that, after a period of custodial training, there should be statutory after-care

for a period of four years from the date of conviction. This would mean, however, that a youth who was released from custody earlier, presumably because of good behaviour, would be subject to after-care for a longer period than a youth who was kept longer in custody because his behaviour had been unsatisfactory. If, on the other hand, the period of after-care were calculated from the date of release instead of the date of sentence, an offender who was detained for a comparatively long period would not have his period of after-care reduced, and a comparatively short period of detention would not automatically carry with it an exceptionally long period of after-care. Moreover, if, as was suggested to us, the period of after-care following a sentence of custodial training was calculated from the date of sentence but was reduced to three years, the period of supervision would often be little more than eighteen months, which might prove to be inadequate in difficult cases. For these reasons, we think that it would be preferable to calculate the period of after-care from the date of release.

74. The Prison Commissioners suggested to us that if the period of after-care began with the date of release a period of at least two years would be desirable. This would, in their view, meet the needs of the more difficult cases, but they recognised that a period of two years' supervision for an offender released after about twelve months' detention or less might be considered excessive, and they therefore suggested that there should be provision for an automatic review after twelve months with a view to the cancellation of the licence where continued supervision was not considered necessary. We agree that a period of two years' supervision following detention for twelve months or less may be considered excessive. It would also conflict with the recommendation in our earlier report on after-care that in every case the period of after-care should be twelve months from the date of release. On the other hand, it must be remembered that the existing period of after-care following a borstal sentence is normally well over two years, so that this proposal would amount in practice to a reduction in the period for youths who might at present be sent to borstal but would in future be sentenced to custodial training. Moreover, if the proposals for custodial training are accepted, it will be possible for a youth to be released earlier than he would be from the existing borstal sentence. We think it inadvisable that, in addition to this reduction in the period spent in custody, there should also be an appreciable reduction in the period of after-care, and accordingly we agree that the normal period of after-care should be two years from the date of release. We recognised, in our report on after-care, that some offenders might need longer periods of after-care than others, and we consider that this departure from our earlier recommendation is justified for young offenders.

75. We agree also that there should be provision for an automatic review after twelve months so that a youth who does not need continued supervision can be released from his obligations. We think that, in fact, twelve months' supervision will prove adequate for a large number of youths, if not the majority, but, as in paragraph 69 above, we think it better that the onus should be on the offender to justify the early termination of his supervision rather than on the supervisor to make a case for it to be extended.

76. The sanction against misbehaviour while on licence will be recall for a period of six months or until two years from the date of the original sentence, whichever is the longer. This is similar to the existing provision for the recall of borstal trainees who fail to comply with the conditions of their licence, and we think that it will be adequate.

VI. Summary of Conclusions and Recommendations

77. The Council's conclusions and recommendations on the proposals may be summarised as follows:

(1) We agree that the proposed changes in the custodial treatment of young offenders, as set out in paragraph 1 of this report, are both necessary and desirable. We think that the proposed new methods will be effective as a means both of deterring youths from committing offences and of providing useful training for those convicted of offences (paragraph 9).

(2) The proposals will to a certain extent limit the discretion of the courts to impose what they consider to be appropriate sentences, but we think that this is justified (paragraph 13). We do not think that the proposed new methods will prove to be insufficiently severe (paragraphs 14–16).

(3) We recommend that similar changes in the penal treatment of girls and young women should be introduced. We recognise that it will be impracticable to provide detention centres for girls, but we recommend that they should receive the standard sentences of three months or six months that we recommend for boys (see recommendation 6 (i) below), during which they should be given an appropriate course of training, and that the proposed indeterminate sentence of custodial training should be introduced for females at the same time as it is introduced for males (paragraphs 18–20).

(4) While we recognise the difficulties, we hope that everything possible will be done to ensure that a sufficient number of remand centres is made available in the reasonably near future (paragraph 28).

Sentences of detention (six months or less)

(5) We agree with the proposal that a system of detention centres should be developed to the point at which it can replace short-term imprisonment (i.e. for six months or less) for young offenders (paragraph 24).

(6) We make the following recommendations:

(i) There should be two standard sentences of detention of three months' and six months' duration (paragraphs 32 and 33).

(ii) Provision should be made to enable a court to sentence a youth over the age of 17 to more than one period of detention in a detention centre (paragraph 34).

(iii) The courts should have discretion to impose whichever of the two sentences of detention they think fit on any occasion, according to the circumstances of the case (paragraph 35).

(iv) Save in the exceptional circumstances referred to in recommendation (8) below, no youth should be sentenced to detention in a detention

centre if he has previously served an indeterminate sentence of custodial training (paragraph 35).

(v) A youth who fails to pay all or part of a sum of money, after all proper methods of persuasion have been tried, should not be sent to a detention centre but should continue to be committed to prison for a period proportionate to the amount outstanding (paragraphs 36–45).

Indeterminate sentences (six months to two years)

(7) We agree with the proposal that the principle of the indeterminate sentence, which already exists in the borstal sentence, should be extended to all young offenders for whom a court considers that a period of detention of between six months and two years is required (paragraph 50).

(8) We recommend that where a youth who has served one indeterminate sentence is convicted again of an offence, other than a serious offence for which a determinate sentence of three years' imprisonment or more would be appropriate, the courts should have discretion to impose either—

(*a*) a further indeterminate sentence of between six months and two years; or

(*b*) a determinate sentence of imprisonment of not less than 18 months (paragraphs 58–60).

In exceptional cases, a court should have the further alternative of ordering a further period of detention of either three months or six months, but this power should be exercisable only if the court considers that, having regard to the length of time that has elapsed since the youth's release from the earlier sentence, his previous record and the nature of the offences, there are adequate special reasons for making such an order (paragraphs 61 and 62).

(9) Reports by the Prison Commissioners, dealing *inter alia* with a youth's probable response to each of the forms of treatment available, and the likelihood of his being a contaminating or disturbing influence in a detention centre, should be made to the courts in all cases in which persons under 21 who have served indeterminate sentences are charged with further offences (paragraph 62).

(10) We think that there would be considerable advantages in retaining the familiar name "borstal training" for this new form of treatment (paragraph 51).

After-care

(11) We consider that all sentences of detention in a detention centre and indeterminate sentences of custodial training should be followed by a period of statutory after-care, which can be reduced in length if the youth concerned makes good progress.

(12) We recommend

(i) that the normal period of after-care following a sentence of detention in a detention centre should be one year from the date of release, but that there should be a compulsory review after six months and that, if the supervisor considers it justified, he should make a recommendation for discharge (paragraphs 68 and 69); and

(ii) that the normal period of after-care following an indeterminate sentence of custodial training should be two years from the date of release, but that there should be a compulsory review after one year with a view to the cancellation of the licence where continued supervision is not considered necessary (paragraphs 74 and 75).

Signed, on behalf of the Council,

PATRICK BARRY,
Chairman.

15*th July*, 1959.

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